

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 404 OF 2007

Prem Chawla ..Applicant
V/s
1.State of Maharashtra and anr. ..Respondent.

Mr. S.V.Marwardi, Advocate for the applicant.

Mr. Y.S. Shinde, APP for the respondents.

CORAM : J.H. BHATIA, J.

DATE : 27TH FEBRUARY, 2007.

P.C.

. Heard Mr Marwadi, learned Counsel for the applicant and Mr. Shidne, learned APP for the respondents

2. Prosecution case, in brief, is that one Jahangir Kapadia was in service of Union Bank of India, Nepean Sea Road Branch, Mumbai and he had come in contact with the Chawala family. After retirement Chawala family offered him attractive interest at the rate of 15% p.a. on the investments and therefore, said Jahangir Kapadia and his wife invested Rs. 16,10,000/- with Chawala family. Some other relatives of Jahangir also deposited Rs.2,35,000/- with Chawala family. All these deposits

and investments were made from June, 1994 to October, 1997. Till October, 1997 they were paid interest on the investments. However, thereafter they stopped payment of interest and also avoided to repay the principal amount. Several demands were made but in vain. Finally, in October, 2002 Jahangir and his wife approached Chawala family for repayment but they refused to repay the amount. Due to this, Jahangir was shocked and he suffered Paralytic attack and died on 3rd October, 2002. Some time in 2006, complainant Jeroo, the wife of Jahangir Kapadia, lodged a complaint before Metropolitan Magistrate 18th Court. The learned Magistrate directed the police under Section 156(3) to investigate the case. This is how Crime No MECR 3/2006 came to be registered by D.B. Marg Police Station for the offence punishable under sections 420, 465, 468, 506(1) and 120 B of Indian Penal Code against the present applicant and 5 others from Chawala Family.

3. The applicant, who is the son of deceased Thakurdas, has filed this application for anticipatory bail. According to him, his father was carrying on business of finance company and he had taken deposits. The applicant had no concern with that business.

According to him, he himself and other members of the family were carrying on business in the name of Chawla Construction Company. In 2001 Insolvency Petition was filed against him and his residential house being Flat No.312 Tahanny Heights (Petit Hall), 66 D, Nepean Sea Road, Mumbai came to be attached and sold away under the supervision of the Bombay High Court and sale proceeds were appropriated for payment to the creditors of the present applicant. According to him, the complainant or her husband had no concern with the present applicant and he is unnecessarily involved in the criminal case. Therefore, he seeks anticipatory bail. On behalf of the prosecution, Mr. Shinde contended that the present applicant had also signed certain Hundies and Negotiable Instructions in favour of the complainant and other members and therefore, he cannot avoid the responsibility.

4. Taking into consideration the facts stated above, it is clear that it is a civil dispute between the parties. The complainant and her husband had made certain deposits with Chawala family from June, 1994 to October, 1997. Thereafter the payments were stopped by Chawala family and they were avoiding the repayment of

principal amount and finally in October, 2002, they refused to make the payment. In spite of this, criminal complaint was filed some time in January or February, 2006. From this, it is clear that for a number of years no action was taken by the complainant or her husband.

5. in such circumstances, and particularly taking into consideration the nature of transactions and dispute, I find that custodial interrogation of the applicant is not necessary. Mr.Shinde informed that the presence of the applicant is necessary to verify his signatures on certain documents. This purpose can be served, if the applicant makes himself available to the police for interrogation.

6. For the aforesaid reasons in the event of arrest in Crime M.E.C.R.No.03/2006 registered at D.B. Marg Police Station, the applicant be released on his executing P.R. of Rs. 25,000/- with one or two sureties in like amount with conditions that he shall fully cooperate with the police in investigation and shall make himself available to the police as and when required for the purpose of interrogation or for obtaining his specimen signatures and handwriting. The

applicant shall remain present at D.B Marg Police station on 1st March, 2007 at 5 P.M. and shall also remain present thereafter as and when called by the police. The applicant shall provide his permanent address to the police.

(J.H. BHATIA, J.)